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return; and

generating <u>the</u> output [representing] <u>including</u> respective amounts of the instruments respectively in association with at least one member of a group consisting of the current preferred return and the price.

II. REMARKS

The Examiner is requested to reconsider the application in view of the foregoing amendment and the following remarks.

Respectfully, and generally for the reasons set forth below, the objections and rejections and each ground therefor -- to the extent not rendered moot by the foregoing Amendment -- are traversed. Generally, it is believed that the amendment adds no new matter. As there is no prior art rejection, the only reason for the foregoing amendment is to make the claims more definite in view of 35 U.S.C. Sec. 112, second paragraph.

A. Paragraphs of Objections and\or Rejections

1. Paragraph 1 of the Office Action

In paragraph 1 of the Office Action, the Examiner has rejected claims 1, 16-20 pursuant to 35 U.S.C. Sec. 112, second paragraph. The Examiner contends that these claims are unclear regarding the nature of certain data or output, and that the "financial characteristics of preferred return instruments" are not clearly set out in the specification.

In response, the offending language concerning data has been deleted from the claims and the antecedent basis for the output has been clarified. Otherwise, it is respectfully submitted that the claims are not vague or in noncompliance with 35 U.S.C. Sec. 112, second paragraph.

Generally, it is respectfully submitted that there is a discussion of financial characteristics of preferred-return instruments in the specification, for example, at page 10, line 28, etc. Further, "preferred-return instruments" would have been understood in the art prior to the filing date of the instant application, as in "preferred stock", which was well known prior to the filing of the instant patent application. Further, even if the terminology was not known, the terms are used in accordance with their plain and ordinary meaning, as exemplified by, say, *Webster's Ninth New Collegiate*

Dictionary (1990) (see enclosed excepts).

Definition of *prefer* (from *Webster's Ninth New Collegiate Dictionary*, G. & C. Merriam Co., 1965) 3: to give (a creditor) priority.

Definition of *return* (from *Webster's Ninth New Collegiate Dictionary*, G. & C. Merriam Co., 1965) 4 c: the profit from labor, investment, or business: yield (to) pl: results.

Definition of *instrument* (from *Webster's Ninth New Collegiate Dictionary*, G. & C. Merriam Co., 1965) 4: formal legal document (as a deed, bond, or agreement).

c.f. (and corresponding excepts):

Definition of *preferred stock* (from *Fundamentals of Investing, Third Edition* by Gitman & Joehnk, Harper & Row, 1988, p. G-17): A stock that carries a fixed, specific dividend, and that takes precedence over dividends to holders of common stock; it also has a prior claim on the assets of the firm and, as such, is senior to common stock.

Explanation of *the security contract* (from *Security Analysis and Portfolio Management, Fourth Edition* by Fischer and Jordan, Prentice-Hall, 1987, pp. 387-388): Bond indentures and preferred-stock contracts spell out the legal rights of holders and the restrictions under which a company must act once it has issued bonds and/or preferred stocks.... However, they can attempt to (1) control the total amount of debt and preferred-stock financing relative to common equity—a prime source of default—and (2) *protect priorities to interest or dividends and principal payments* in the event of default

(Italics not in the original text.) Note in the immediately preceding excerpt that the interest, dividends and principal payments are the *preferred return* and that the preferred return is measured as an interest rate by computing the yield to maturity, which makes possible accurate comparisons of preferred returns between instruments—the yield to maturity is the interest rate that makes the present value of the promised interest and principal payments, or dividend payments, equal to the price of the instrument.

c.f. (and corresponding excepts):

Explanation and definition of *yield to maturity* (from *Intermediate Financial Management, Fifth Edition*, Brigham and Gapenski, Dryden Press, 1996, p. 100): The valuation model set forth in Equation 4-2 can also be used to find a bond's *yield to maturity (YTM).* Given the current market value of a bond and its coupon payment, par value, and number of years to maturity, Equation 4-2 can be solved for the yield to maturity, YTM = k_d, which is the bond's expected rate of return. The YTM is that discount rate which causes the present value of the promised payment stream to equal the current price of the bond.

Explanation of the *discount rate* applied in *discounted cash flow (DCF)* investment analysis (from *Intermediate Financial Management, Fifth Edition*, Brigham and Gapenski, Dryden Press, 1996, p. 6): The discount rate applied in DCF investment analysis must reflect forgone opportunities, but which ones should be considered? The discount rate should reflect the returns that could be earned by investing the funds in the best alternative investment opportunity of *similar risk*. ... so the expected rates of return on financial assets are usually used to set the opportunity cost for all investment decisions.

Explanation of *present value* (from *Fundamentals of Financial Management, Seventh Edition*, Eugene F. Brigham, Dryden Press, 1995, p. 203): In general, *the present value*

of a cash flow due n years in the future is the amount which, if it were on hand today, would grow to equal the future amount. Since $100 would grow to $127.63 in 5 years at a 5 percent interest rate, $100 is the present value of $127.63 in 5 years at a 5 percent interest rate, $100 is the present value of $127.63 due 5 years in the future when the opportunity cost rate is 5 percent.

AEC ANNOUNCES $150 MILLION PREFERRED SECURITY OFFERING (source http://www.aec.ca/news/News9924.htm, July 22, 1999): ALBERTA ENERGY COMPANY LTD. Today announced that it has entered into a "bought deal" agreement with a group of underwriters led by RBC Dominion Securities Inc. for the sale of $150 million principal amount of Preferred Securities. .... Each security represents $25 principal amount of unsecured junior subordinated debentures, bears interest at 8.5% per annum payable quarterly, has a term of approximately 49 years and is redeemable at par by AEC at any time after five years. .... The preliminary rating of these Preferred Securities is "B++" by CBRS Inc. and "Pfd-2 (low)y" by Dominion Bond Rating Service Limited.

c.f. excerpts of a print out of other citations.

In sum, it is respectfully submitted that "preferred-return instruments" would have been understood in the art prior to the filing date of the instant application. Further, even if the terminology was not known, the terms are used in accordance with their plain and ordinary meaning, and more over there is support in the specification as cited above for characteristics of preferred-return instruments.

2. Paragraph 2 of the Office Action

In paragraph 2 of the Office Action, the Examiner has rejected claims 2-15 solely because they depend from a rejected base claim.

In response, the foregoing amendment addresses the above-discussed language-based rejection of the base claims.

3. Paragraph 3 of the Office Action

In paragraph 3 of the Office Action, the Examiner has made certain prior art of record as not relied upon but considered pertinent.

In response, Applicant expresses appreciation for the Examiner's consideration of the potential prior art.

4. Paragraph 4 of the Office Action

In paragraph 4 of the Office Action, the Examiner has graciously provided numerous ways to contact the Examiner and/or PTO for inquiry in the present matter.

In response, the undersigned appreciates the Examiner's courtesy and i f the prosecution of this case can be in any way advanced by a telephone discussion, the Examiner is requested to call the undersigned at (312) 240-0824.

III. CONCLUSION

The application, as amended, is believed to be in condition for allowance, and favorable action is requested. If any extension of time for responding is required, it is requested that this be deemed a petition therefore, and the Commissioner is authorized to charge any required fee, or credit any overcharge to, PTO Account 50-0235.

Respectfully submitted,

Date: 29 MAR 2002

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